

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

GERALD RAY BARROW,
TDCJ#579954
Plaintiff,

V.

MRS. MOORE, ET AL.,
Defendants.

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C.A. NO. C-06-383

**ORDER GRANTING LEAVE TO PROCEED *IN FORMA PAUPERIS* ON
APPEAL AND COLLECTION ORDER**

Plaintiff, a prisoner proceeding *pro so* and *in forma pauperis* filed this lawsuit pursuant to 42 U.S.C. § 1983, alleging various constitutional violations. Following an evidentiary hearing, plaintiff's lawsuit was dismissed as frivolous and final judgment entered on November 13, 2006 (D.E. 21, 22). On November 24, 2006, plaintiff timely filed notice of appeal of the final judgment (D.E. 31) and on March 5, 2007, plaintiff filed a second notice of appeal of the final judgment (D.E. 43). Because the two notices of appeal appear to request review of the order of dismissal and final judgment, the two will be treated as one for purposes of the filing fee requirement.

Plaintiff timely filed applications for leave to proceed *in forma pauperis* on appeal, but those applications (D.E. 34, 37) were denied as moot after the undersigned erroneously

assumed that the first collection order entered covered notices of appeal of the final judgment when it did not.¹ Those orders (D.E. 36, 39) are now vacated, and plaintiff's applications for leave to proceed *in forma pauperis* on appeal (D.E. 34, 37), considered in light of the PLRA, are granted, and the following order is entered:

1. The Clerk shall file the Appellant's notice of appeal without prepayment of the appellate filing fee.

3. The plaintiff-appellant shall pay **\$455.00**, appellate filing fee, in monthly installments to the United States District Court as provided in 28 U.S.C. § 1915(b)(1).

4. The Texas Department of Criminal Justice -- CID shall deduct 20% of each deposit made to the plaintiff's inmate trust account and forward payments to the United States District Court on a regular basis provided the account exceeds \$10.00.

5. The plaintiff-appellant shall sign all consents and other documents required by the agency having custody of plaintiff-appellant to authorize the necessary withdrawal from the plaintiff-appellant's inmate trust account.

¹Plaintiff filed a notice of appeal, appealing to the Fifth Circuit an order denying him an investigator at government expense (D.E. 20, 23). A collection order was entered as to this appeal (D.E. 33), which was dismissed on February 15, 2007, because the order appealed was not a final appealable order (D.E. 41). A separate docketing fee is required for the notices appealing the final judgment. FED. R. APP. P. 3(e).

6. The Clerk of the Court shall send a copy of this Order to the **Inmate Trust Fund, P.O. Box 629, Huntsville, Texas 77342-0629** and to **TDCJ - Office of the General Counsel, P.O. Box 13084, Capitol Station, Austin, Texas 78711.**

ORDERED this 23rd day of March, 2007.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE